



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE 17-10

BILL 52 (2016), CD1

A BILL FOR AN ORDINANCE

RELATING TO REZONE LAND SITUATED AT MOANALUA, OAHU, HAWAII

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Zoning Map No. 6 Red Hill — Fort Shafter, Ordinance 86-109, is hereby amended as follows: Land situated at 515 Main Street, Honolulu, Oahu, Hawaii, hereinafter described, is hereby rezoned from the F-1 Military and Federal Preservation District to the R-5 Residential District. The boundaries of said District shall be described as shown on the map attached hereto, marked "Exhibit A" and made a part hereof, and further identified as Tax Map Key: 1-1-002: 047.

SECTION 2. A Unilateral Agreement marked "Exhibit B" is by reference incorporated herein and made a part hereof.



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SECTION 3. This ordinance takes effect upon its approval.

INTRODUCED BY:

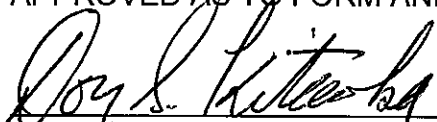
Ernest Martin (br)

DATE OF INTRODUCTION:

August 26, 2016
Honolulu, Hawaii

Councilmembers

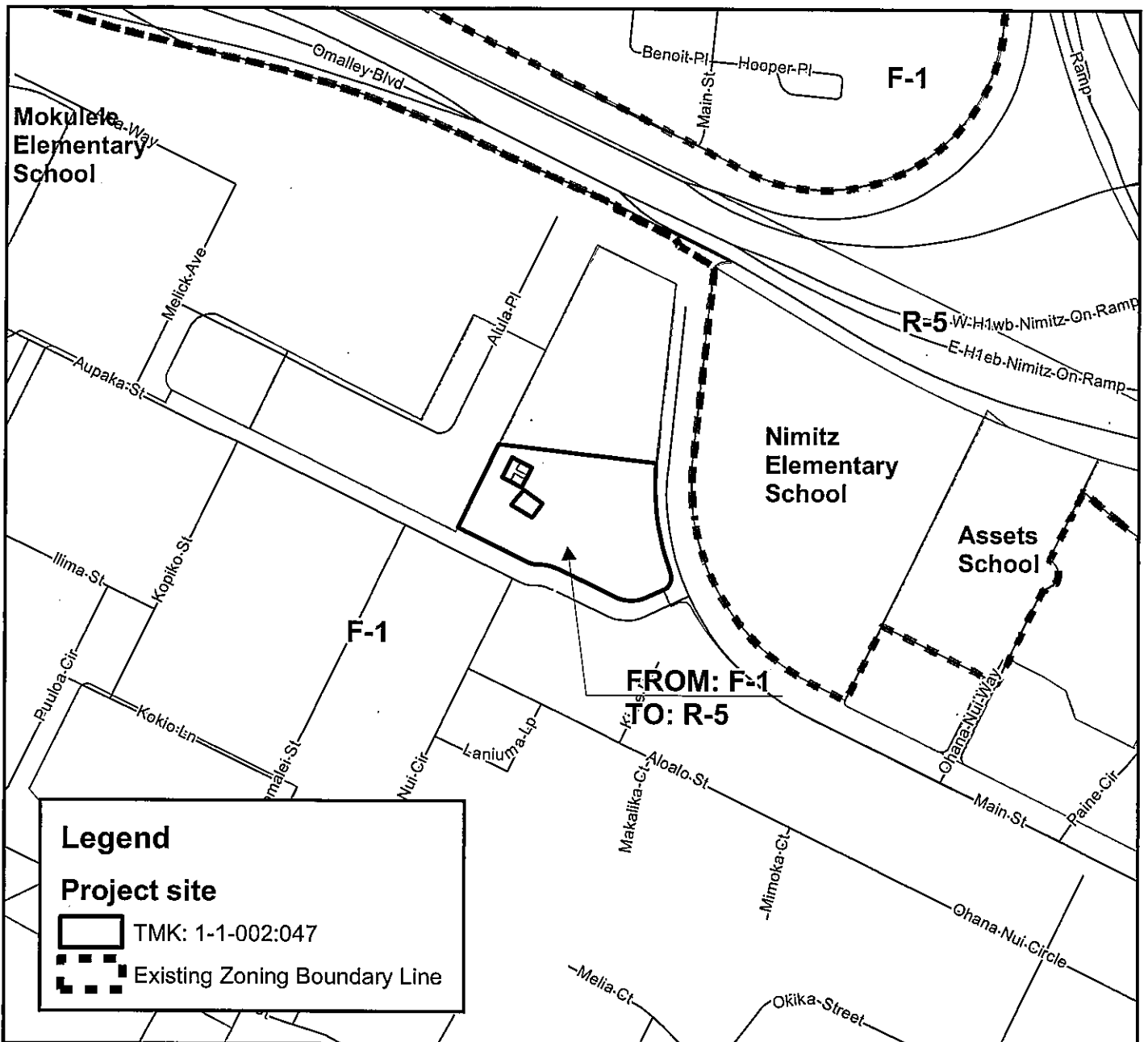
APPROVED AS TO FORM AND LEGALITY:


Deputy Corporation Counsel

DON S. KITAOKA

APPROVED this 7th day of April, 2017.


KIRK CALDWELL, Mayor
City and County of Honolulu



**PORTION OF
ZONING MAP NO. 6
(RED HILL - FORT SHAFTER)**

Land situated on the northwesterly corner of the intersection
of Main Street and Aupaka Street.

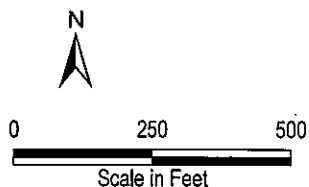
APPLICANT: Church of Christ at Pearl Harbor

TAX MAP KEY(S): 1-1-002:047

FOLDER NO.: 2106/Z-4

LAND AREA: 2.462 Ac.

PREPARED BY: CITY COUNCIL
CITY AND COUNTY OF HONOLULU



ORD. NO.: 17-10

PUBLIC HEARING: PLANNING COMMISSION

CITY COUNCIL JAN 24 2017

EFF. DATE: APR 07 2017

EXHIBIT A AUG 17 2016

BILL: 52 (2016)

OFFICE OF THE
ASSISTANT REGISTRAR, LAND COURT
STATE OF HAWAII
(Bureau of Conveyances)

The original of this document was
recorded as follows:

DOCUMENT NO. Doc T - 9909317
CT 1113609
DATE/TIME February 17, 2017 3:29 PM

LAND COURT

REGULAR SYSTEM

Return By Mail ☐ Pick-Up ☒ To:

Robert E. Strand, Esq.
Carlsmith Ball LLP
ASB Tower, Suite 2100
Honolulu, Hawaii 96813

Tel. No. 808/523-2500

TITLE OF DOCUMENT:

UNILATERAL AGREEMENT AND
DECLARATION FOR CONDITIONAL ZONING

PARTIES TO DOCUMENT:

DECLARANT: **CHURCH OF CHRIST AT PEARL HARBOR**
515 Main Street
Honolulu, Hawaii 96818

TAX MAP KEY(S): (1) 1-1-002:047

(This document consists of __ pages.)

**UNILATERAL AGREEMENT AND
DECLARATION FOR CONDITIONAL ZONING**

THIS INDENTURE (hereinafter referred to as this "Unilateral Agreement" or this "Declaration"), is made this 15th day of February, 2017, by **CHURCH OF CHRIST AT PEARL HARBOR**, whose address is 515 Main Street, Honolulu, Hawaii 96818 (hereinafter referred to as the "Declarant"),

W I T N E S S E T H:

WHEREAS, the Declarant is the owner in fee simple of that certain parcel of land situated in Moanalua, City and County of Honolulu, State of Hawaii, consisting of approximately 2.512 acres, described as Tax Map Key No. (1) 1-1-002:047, and more particularly described in Exhibit A attached hereto and made a part hereof (the "Land"), and desires to make the Land subject to this Unilateral Agreement; and

WHEREAS, the Declarant plans to continue to operate a church, a day-care facility and a residence for the minister and the minister's family on the Land (the "Project"); and

WHEREAS, the City Council (the "Council") of the City and County of Honolulu (the "City"), pursuant to the provisions of the Land Use Ordinance ("LUO"), Revised Ordinances of Honolulu 1990 ("ROH") Section 21-2.80, as amended, relating to conditional zoning, is considering a change in zoning under the LUO of the Land from the F-1 Military and Federal Preservation District to R-5 Residential District (the "zone change"); and

WHEREAS, a public hearing regarding the change in zoning, Bill 52 (2016), was held by the Council on January 25, 2017; and

WHEREAS, the Council recommended by its Zoning Committee Report No. 67 that the said zone change be approved, subject to the following conditions contained in this Declaration to be made pursuant to the provisions of ROH Section 21-2.80, as amended, relating to conditional zoning, and to become effective on the effective date of the zoning ordinance approving the change of zoning (the "Rezoning Ordinance");

NOW THEREFORE, the Declarant hereby covenants and declares as follows:

1. Affordable Housing. Prior to building permit approval for more than six residential dwelling units on the Land, the Declarant shall execute a binding agreement to participate in an affordable housing plan that is acceptable to the Department of Planning and Permitting of the City and County of Honolulu ("DPP"), in accordance with adopted rules. The agreement shall provide for no less than 30 percent of the total number of dwelling units constructed to be affordable housing units.

2. Flight Operations Disclosure. The Declarant shall inform all prospective purchasers, lessees, renters, or residential occupants of the Land of potential aircraft flight and airport activity and related impacts, including, but not limited to, noise, fumes, smokes, vibrations, and odors. The Declarant shall record the disclosure statement with the State of

Hawaii Bureau of Conveyances or the State of Hawaii Land Court, or both, as appropriate, within 60 days from the effective date of the Rezoning Ordinance and provide a copy of the filed document to the DPP for its records.

3. Compliance with Other Governmental Requirements. The Declarant acknowledges that approval of the zone change does not constitute compliance with other LUO or other governmental requirements. They are subject to separate review and approval. The Declarant shall be responsible for ensuring that any future development of the Land complies with all applicable LUO and other governmental provisions and requirements, including but not limited to all rules and regulations relating to the flight operations in airspace above properties located within airport areas.

4. Annual Reports. On an annual basis, the Declarant shall submit a written status report to the DPP documenting its satisfaction of and/or describing its progress toward complying with each condition of approval for this zone change. The status report shall be submitted to the DPP by December 31 of each year until such time as the DPP has determined that all conditions of approval have been satisfied, or as necessary.

5. Noncompliance with Conditions. In the event of noncompliance with any of the conditions set forth herein, the Director of the DPP shall inform the City Council and may seek civil enforcement or take appropriate action to terminate or stop any future development of the Land until applicable conditions are met, including but not limited to revoking any permits issued under this zoning and withholding issuance of other permits related to the Project. Noncompliance also may be grounds for the enactment of ordinances making further zone changes, including revocation of the underlying zoning, upon initiation by the proper parties in accordance with the Revised City Charter.

NOW, THEREFORE, the Declarant hereby makes the following additional Declarations:

A. As used herein, references to a specific City department or agency shall be deemed to include a reference to any successor department or agency.

B. That the conditions imposed herein are reasonably conceived to fulfill public service demands created by the requested change in zoning and are rationally related to the objective of preserving the public health, safety and general welfare and the further implementation of the General Plan of the City and County of Honolulu.

C. That the development of the Land shall conform to the aforesaid conditions with the understanding that, at the request of the Declarant and upon the satisfaction of the conditions set forth in this Unilateral Agreement, the Department of Planning and Permitting may fully or partially release, as applicable, any of the foregoing conditions that have been fulfilled.


D. That if there are any conflicts between this Unilateral Agreement and any previous unilateral agreement(s) applicable to the Land, the terms and conditions of this Unilateral Agreement shall apply.

AND IT IS EXPRESSLY UNDERSTOOD AND AGREED that the conditions imposed in this Declaration shall run with the Land and shall bind and constitute notice to all the parties

hereto and subsequent lessees, grantees, assignees, mortgagees, lienors, successors, and any other persons who have or claim to have an interest in the Land, and the City and County of Honolulu shall have the right to enforce this Declaration by rezoning, appropriate action at law or suit in equity against all such persons, provided that the Declarant or its successors and assigns may file a petition with the Department of Planning and Permitting for amendment or removal of any conditions or termination of this Declaration, such petition to be processed in the same manner as petitions for zone changes.

IN WITNESS WHEREOF, Declarant has executed this Unilateral Agreement and Declaration for Conditional Zoning on the day and year first above written.

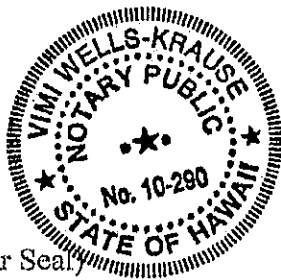
**CHURCH OF CHRIST AT PEARL
HARBOR**

By 
Name: William Wood
Its: President

Declarant

STATE OF HAWAII)
) ss.
CITY AND COUNTY OF HONOLULU)

On this 15th day of February 2017, before me personally appeared **WILLIAM WOOD**, personally known/proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person executed the foregoing instrument as the free act and deed of such person, and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.



(Notary Stamp or Seal)

Timi Kall-Haar

Name: Vimi Wells-Krause

Notary Public, State of Hawaii

My commission expires: September 5, 2018

NOTARY CERTIFICATION STATEMENT

Document Identification or Description: Unilateral Agreement and Declaration for Conditional Zoning

Document Date: February 15, 2017

No. of Pages: 6 Including this page and Exhibit A

Jurisdiction (in which notarial act is performed):

First Circuit

St. Clair
Femi Mills-Kearse

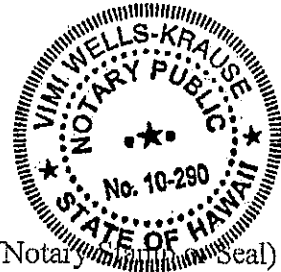
February 15, 2017

Signature of Notary

Date of Notarization and
Certification Statement

Vimi Wells-Krause

Printed Name of Notary



(Notary Seal)

EXHIBIT A

Property Description

All of that certain parcel of land situate at Moanalua, City and County of Honolulu, State of Hawaii, described as follows:

Lot 3945, consisting of approximately 2.512 acres, more or less, as shown on Map 754, as set forth in Land Court Order No. 189043 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii with Land Court Application 1074, being the property covered by Certificate of Title No. 1113609 issued to the Church of Christ at Pearl Harbor.

BEING the land conveyed to the Church of Christ at Pearl Harbor by instrument dated March 21, 2016 filed in the Office of the Assistant Registrar of the Land Court of the State of Hawaii as Document Nos. T-9579151A through T-9579151C.

TMK Oahu 1-1-002-047

CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII
CERTIFICATE

ORDINANCE 17-10

BILL 52 (2016), CD1

Introduced: 08/26/16

By: ERNEST MARTIN – BY REQUEST

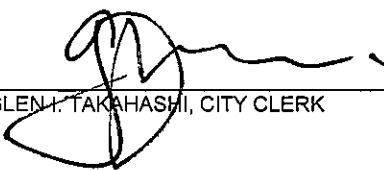
Committee: ZONING AND HOUSING

Title: A BILL FOR AN ORDINANCE TO REZONE LAND SITUATED AT MOANALUA, OAHU, HAWAII.

Voting Legend: * = Aye w/Reservations

09/07/16	COUNCIL	BILL PASSED FIRST READING AND REFERRED TO COMMITTEE ON ZONING AND PLANNING. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
11/02/16	COUNCIL	<u>M-2599</u> – APPROVED 120-DAY EXTENSION OF TIME. (DEADLINE: 11/24/16 + 120 DAYS) 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
01/04/17		<u>CC-7(17)</u> MENOR - BILL RE-REFERRED FROM COMMITTEE ON ZONING AND PLANNING TO COMMITTEE ON ZONING AND HOUSING.
01/14/17	PUBLISH	PUBLIC HEARING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
01/19/17	ZONING AND HOUSING	CR-39(17) - BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON SECOND READING AND SCHEDULING OF A PUBLIC HEARING AS AMENDED IN CD1 FORM.
01/25/17	COUNCIL/PUBLIC HEARING	CR-39(17) ADOPTED. BILL PASSED SECOND READING AS AMENDED, PUBLIC HEARING CLOSED AND REFERRED TO COMMITTEE ON ZONING AND HOUSING. 8 AYES: ANDERSON, ELEFANTE, FUKUNAGA KOBAYASHI, MANAHAN, MARTIN, MENOR, PINE. 1 ABSENT: OZAWA.
02/01/17	PUBLISH	SECOND READING NOTICE PUBLISHED IN THE HONOLULU STAR-ADVERTISER.
02/09/17	ZONING AND HOUSING	CR-67(17) – BILL REPORTED OUT OF COMMITTEE FOR PASSAGE ON THIRD READING AS AMENDED.
02/22/17	COUNCIL	CR-67(17) AND BILL 52 (2016), CD1 DEFERRED TO NEXT COUNCIL MEETING. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.
03/22/17	COUNCIL	CR-67(17) ADOPTED AND BILL 52 (2016), CD1 PASSED THIRD READING. 9 AYES: ANDERSON, ELEFANTE, FUKUNAGA, KOBAYASHI, MANAHAN, MARTIN, MENOR, OZAWA, PINE.

I hereby certify that the above is a true record of action by the Council of the City and County of Honolulu on this BILL.


GLEN I. TAKAHASHI, CITY CLERK


RON MENOR, CHAIR AND PRESIDING OFFICER